

Government of India
 Ministry of Communications & IT
 Department of Telecommunications
 (Data Services Division)
 Sanchar Bhavan, 20 Ashoka Road, New Delhi-110001.

No. 820 - 01 / 2006 - LR (Vol. II) Pt-2

23-12-2013

To

All Internet Service Providers (including Internet Telephony)
 (under Guidelines for issue of permission to offer Internet Telephony
 Service, 2002).

Subject: Amendment of Licence Agreement for provision of Internet Service (including Internet Telephony), issued under Guidelines for issue of permission to offer Internet Telephony Service 2002, regarding Foreign Direct Investment (FDI) – Caps and routes in Telecom sector.

In pursuance of Condition 12(ii) of the Licence Agreement for provision of Internet Service (including Internet Telephony) issued under Guidelines for issue of permission to offer Internet Telephony Service, 2002, The LICENSOR hereby amends the following Terms and Conditions of the said Licence Agreement with immediate effect.

Existing affected clause of licence	After Amendment
<p>15. The Licence is granted to the LICENSEE on the condition that any change in the Indian Partners or their equity participation should be as stipulated in the Indian Companies Act 1956. The LICENSEE shall be responsible to ensure that the total foreign equity in the LICENSEE Company does not, at any time, exceed 74% of the total equity, whenever it is likely to set up or has set up International gateways.</p> <p>The present Indian & Foreign partners/promoters and their equity held in the LICENSEE Company as intimated by the company are recorded as follows:-</p> <p>Promoter/partner</p> <p>Indian/Foreign</p> <p>Equity held in the LICENSEE Company...</p>	<p>15. The Licence is granted to the LICENSEE on the condition that any change in the Indian Partners or their equity participation should be as stipulated in the Indian Companies Act 1956.</p> <p>Both direct and indirect foreign investment in the Licensee Company shall be counted for the purpose of calculating FDI.</p> <p>FDI upto 100% with 49% under automatic route and beyond 49% through FIPB route subject to observance of licensing and security conditions by licensee as well as investors as notified by the DoT from time to time.</p> <p>The LICENSEE shall declare compliance to licence and security condition and Indian equity and Foreign equity as on 1st January and 1st July by 7th January and 7th July respectively to LICENSOR. This is to be certified by the Company Secretary or Licensee company's statutory auditor.</p>
	<p>15(a).</p> <p>A. Foreign Direct Investment (FDI):</p> <p>(i) While approving the investment proposals, FIPB may take into accounts security concerns.</p>
	<p>(ii) FDI shall be subject to laws of India and not the laws of the foreign country/countries.</p>

	(iii) The licensee Company/ Indian Promoters/Investment Companies including their holding companies shall comply with relevant provisions of extant FDI policy of the Government.
	B. Security Conditions:
	(i) The Chief Officer Incharge of technical network operations and the Chief Security Officer should be a resident Indian citizen.
	(ii) Details of infrastructure/network diagram (technical details of the network) could be provided on a need basis only to telecom equipment suppliers/manufacturers and the affiliate/parents of the licensee company. Clearance from the licensor (Department of Telecommunications, Government of India) would be required if such information is to be provided to anybody else.
	(iii) For security reasons, domestic traffic of such entities as may be identified /specified by the licensor shall not be hauled/routed to any place outside India.
	(iv) The licensee company shall take adequate and timely measures to ensure that the information transacted through a network by the subscribers is secure and protected.
	(v) The officers/officials of the licensee companies dealing with the lawful interception of messages will be resident Indian citizens.
	(vi) The majority Directors on the Board of the company shall be Indian citizens.
	(vii) The positions of the Chairman, Managing Director, Chief Executive Officer (CEO) and/or Chief Financial Officer (CFO), if held by foreign nationals, would require to be security vetted by Ministry of Home Affairs (MHA). Security vetting shall be required periodically 'on yearly basis. In case something adverse is found during the security vetting, the direction of MHA shall be binding on the licensee.
	(viii) The Company shall not transfer the following to any person/place outside India:- (a) Any accounting information relating to subscriber (except for international roaming/billing) (Note: it does not restrict a statutorily required disclosure of financial nature) ; and
	(b) User information (except pertaining to foreign subscribers using Indian Operator's network while roaming).
	(ix) The Company must provide traceable identity of their subscribers. However, in case of providing service to roaming subscriber of foreign Companies, the Indian Company shall endeavour to obtain traceable identity of roaming subscribers from the foreign company as a part of its roaming agreement.

	(x) On request of the licensor or any other agency authorised by the licensor, the telecom service provider should be able to provide the geographical location of any subscriber (BTS location of wireless subscriber) at a given point of time.
	(xi) The Remote Access (RA) to Network would be provided only to approved location(s) abroad through approved location(s) in India. The approval for location(s) would be given by the Licensor (DoT) after satisfying itself about the appropriateness.
	(xii) Under no circumstances, should any RA to the suppliers/manufacturers and affiliate(s) be enabled to access Lawful Interception System(LIS), Lawful Interception Monitoring(LIM), Call contents of the traffic and any such sensitive sector/data, which the licensor may notify from time to time.
	(xiii) The licensee company is not allowed to use remote access facility for monitoring of content.
	(xiv) Suitable technical device should be made available at Indian end to the designated security agency/licensor in which a mirror image of the remote access information is available on line for monitoring purposes.
	(xv) Complete audit trail of the remote access activities pertaining to the network operated in India should be maintained for a period of six months and provided on request to the licensor or any other agency authorised by the licensor.
	(xvi) The telecom service providers should ensure that necessary provision (hardware/software) is available in their equipment for doing the Lawful interception and monitoring from a centralized location.
	(xvii) The telecom service providers should familiarize/train TERM Cell /security agency officers/officials in respect of relevant operations/features of their systems.
	(xviii) It shall be open to the licensor to restrict the Licensee Company from operating in any sensitive area from the National Security angle.
	(xix) In order to maintain the privacy of voice and data, monitoring shall only be upon authorisation by the Union Home Secretary or Home Secretaries of the States/Union Territories.
	(xx) For monitoring traffic, the licensee company shall provide access of their network and other facilities as well as to books of accounts to the security agencies.

2. All other terms and conditions of the Licence Agreement for provision of Internet Service (including Internet Telephony) issued under Guidelines for issue of permission to offer Internet

Telephony Service, 2002, including amendments and instructions issued from time to time shall remain unchanged.

3. Please acknowledge receipt.



(Sanjay Kumar)
ADG(ISP-1)

For and on behalf of the President of India
Ph.No.2303 6482

Copy To:

1. Secretary, TRAI
2. WA, DOT
3. Sr. DDG(WPF)/DDG(LF-I)/DDG(LF-II)
4. DDG(AS-I)/DDG(DS)/DDG(CS)
- ✓ 5. Director (IT) may kindly arrange to upload this letter on the website of DoT.